

REMARKS/ARGUMENTS

The claims are divided into the following Groups:

Group I: Claim(s) 13-21, and 24-31, drawn to a process for treating visible, tactile, or both visible and tactile irregularities in human skin, said method comprising: a) topically applying a first composition to skin in need thereof wherein the composition comprises at least 20% by weight of urea in a physiologically acceptable medium, b) maintaining the first composition in contact with the skin for between 5 minutes and 6 hours, and c) removing the composition by rinsing.

Group II: Claim(s) 22, drawn to a process for treating visible, tactile, or both visible and tactile irregularities in human skin, said method comprising applying a second composition to the skin, wherein the second composition comprises from 0.5% to 10% by weight of urea in a physiologically acceptable medium, before applying the first composition to the skin.

Group III: Claim(s) 23, drawn to a process for treating visible, tactile, or both visible and tactile irregularities in human skin, said method comprising applying a third composition to the skin, wherein the third composition comprises from 0.5% to 10% by weight urea in a physiologically acceptable medium, after removing the first composition.

In addition, an Election of Species as described below is required:

Specie A: Election of one compound from a)ethanol; b) isopropanol; c) glycerol and d) propylene glycol is required.

Specie B: Election of one thickener from the list in Claim 21 is required.

Specie C: Election of one purpose from a) attenuate one or more of wrinkle, fine line, pigmentation mark, and acne scar; b) unblock skin pores and c) remove one or more layers of epidermis or dermis of the skin, is required.

Specie D: Election of need addressed from a) face; b) lines; c) pigmentation marks; d) acne scars; e) unblocking pores, is required.

Applicants elect, with traverse, Group I, Claims 13-21 and 24-31, for examination. As single disclosed species, Applicants provisionally elect, for examination purposes only, the following specie set:

Specie A: ethanol

Specie B: xanthan gum

Specie C: attenuate one or more of wrinkle, fine line, pigmentation mark, and acne scar

Specie D: face

Claims 13-21, 24 and 26-30 read on the elected species.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office has asserted that Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features. Citing Hua (U.S. 2003/0095990) the Office states:

“The step in common with Groups I-II is claim 13; the step of claim 13 is known in the art.”

The Office then provides a detailed analysis of the teaching of cited references.

Applicants call the Examiner's attention to MPEP § 802.02 which defines Restriction as:

Restriction is the practice of requiring an applicant to elect a single claimed invention (e.g., a combination or subcombination invention, a product or process invention, a species within a genus) for examination when two or more independent inventions and/or two or more distinct inventions are claimed in an application.

Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Examiner has not shown that Groups I-III are independent or distinct nor is any indication provided that the contents of the claims have been interpreted in light of the description to support the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

Moreover, Applicants respectfully refer to Annex B of the Administrative Instructions Under the PCT, paragraph (c), which states in part, “Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims.” Applicants respectfully submit that Claims 22 and 23 both depend directly from Claim 13 in this application and both claims clearly state: “The process according to Claim 13, **further comprising:** . . .”

The MPEP §806.03 states:

“Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.”

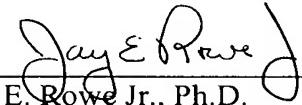
Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction.

Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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